

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 7. Mediation Questionnaire

Instructions for this form: <https://www.ca9.uscourts.gov/forms/form07instructions.pdf>

9th Cir. Case Number(s)	23-15399
Case Name	Behrend v. San Francisco Zen Center
Counsel submitting this form	Jim Davy
Represented party/parties	Alexander Behrend

Briefly describe the dispute that gave rise to this lawsuit.

Alexander Behrend was employed as an apprentice by the San Francisco Zen Center, where he did largely basic, routine work--sweeping, cleaning guest rooms, kitchen tasks, etc. He also practiced Buddhism, like everyone at the Center, although he did not teach or instruct others in the faith. And unlike most others, however, Behrend had an ADA-qualifying disability. The Center told its employees that it was exempt from compliance from the ADA because of its nature as a religious institution, and eventually fired Behrend because of his disability. Behrend sued.

Briefly describe the result below and the main issues on appeal.

The Zen Center defended Behrend's suit in part by invoking the "ministerial exception," which allows religious institutions to exert more control over the employment of people in key roles--ministers, or teachers, or those who have responsibilities to instruct others in the faith--under the 1st Amendment. The District Court granted summary judgment to the Zen Center after agreeing that the ministerial exception applied to Behrend.

Behrend now appeals. The District Court decision is wrong because the Court concluded that someone merely engaging in the practice of faith is sufficient to qualify them as a minister for purposes of the exception. The exception applies to people in important roles, who teach the faith to others. Behrend did not hold such a role. Accordingly, the exception should not apply to him.

Describe any proceedings remaining below or any related proceedings in other tribunals.

There are no remaining proceedings in the District Court; Behrend, represented by the California Labor Commissioner, has ongoing proceedings in California Superior Court concerning wage/hour claims. They are related to the same underlying facts that gave rise to this case.

Signature **Date**
(use "s/[typed name]" to sign electronically-filed documents)